

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

CLARETHA ROSS,

Petitioner,

VS.

KATHY SEABOLT,

Respondent.

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1:12-CV-151 (WLS)

ORDER AND RECOMMENDATION

Presently pending in this § 2254 action is Respondent's Motion to Dismiss this federal habeas Petition for failure to state a claim, filed June 14, 2013. (Doc. 45). The Court issued an Order on June 17, 2013 notifying Petitioner of the pendency of this Motion and directing her to respond thereto. (Doc. 47). As of the date of this Order and Recommendation, Petitioner has not filed a response to Respondent's Motion to Dismiss.

A federal court may entertain a federal habeas petition only on the ground that the prisoner is in custody in violation of the United States Constitution, a treaty, or the laws of the United States. *Estelle v. McGuire*, 502 U.S. 62, 68 (1991). The Petition does not state any grounds for relief. (Doc. 25). Petitioner has also not amended her Petition to include any grounds for relief. As Petitioner does not allege any constitutional errors, her Petition fails to state a claim upon which relief can be granted. It is therefore the recommendation of the undersigned that Respondent's Motion to Dismiss be **GRANTED**.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to the recommendation contained herein with the Honorable W. Louis Sands, United States District Judge, WITHIN FOURTEEN (14) DAYS after being served with a copy of this Recommendation.

The undersigned finds no substantial showing of the denial of a constitutional right. 28

U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 478, 483-84 (2000). Therefore, it is recommended that the Court deny a certificate of appealability in its Final Order. If the Petitioner files an objection to this Recommendation, she may include therein any arguments she wishes to make regarding a certificate of appealability.

All of Petitioner's remaining Motions (Docs. 49, 50, 51, 55, 60, 61, 62) are hereby **found to be moot** as the undersigned is recommending dismissal of Petitioner's Petition based on her failure to state a claim.

SO ORDERED AND RECOMMENDED, this 19th day of August, 2013.

s/ ***THOMAS Q. LANGSTAFF***
UNITED STATES MAGISTRATE JUDGE

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